

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DORAN MAURICE SMITH,

Plaintiff,

v.

No. 3:22-cv-409-CWR-LGI

STATE OF MISSISSIPPI, ET AL.,

Defendant.

ORDER DISMISSING DEFENDANT STATE OF MISSISSIPPI

Pro se Plaintiff Doran Maurice Smith, an inmate of the Madison County Detention Center in Canton, Mississippi, brings this Complaint pursuant to 42 U.S.C. § 1983. Smith is proceeding *in forma pauperis* (“IFP”). See Order [13]. Smith names as defendants: the State of Mississippi; Randy Harris; Sheriff Randall Tucker; Madison County, Mississippi; Officer Curtis Chism; Judge Brad Mills; Merit Health; and Nurse Charlene Burt. See Order [15].

Under the Prison Litigation Reform Act, a district court may dismiss an IFP complaint “at any time” if the complaint is “frivolous, malicious, or fails to state a claim upon which relief may be granted.” *Rogers v. Boatright*, 709 F.3d 403, 407 (5th Cir. 2013) (citing *Jones v. Bock*, 549 U.S. 199, 202 (2007) (holding that Prison Litigation Reform Act mandates early judicial screening of prisoner complaints)). Since Smith is incarcerated and proceeding IFP, his Complaint is subject to screening under the Prison Litigation Reform Act.

Smith seeks relief under § 1983, which provides, “[e]very *person* who, under color of [state law], subjects . . . any citizen . . . thereof to the deprivation of any rights, privileges, or

immunities secured by the Constitution and laws, shall be liable to the party injured.” 42 U.S.C. § 1983 (emphasis added). The State of Mississippi is not “amenable to suit under this statute, because ‘a State is not a person within the meaning of § 1983.’” *Wedgeworth v. Mississippi*, No. 3:17-cv-730-CWR-FKB, 2018 WL 1463496, at *4 (S.D. Miss. Mar. 23, 2018) (citing *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 64 (1989)). Smith therefore may not maintain this § 1983 suit against the State of Mississippi.

IT IS THEREFORE ORDERED AND ADJUDGED that the State of Mississippi is dismissed as a defendant.

SO ORDERED AND ADJUDGED this the 16th day of September, 2022.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE